

MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

November 16 and 17, 2004

The meeting was called to order at 8:45 a.m., in the Cumberland Room, Ground Floor of the Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37247-1010, by President Dr. David Cunningham. Other members present were: Drs. Charles White, Subhi Ali, Mitchell Mutter, George Eckles, Michael Zanolli, Sam Barnes, Ms. Nina Yeiser and Ms. Mary Johnson. Absent members were: Drs. Barbara Engelhardt, Allen Edmonson and Mr. Mark Brown. Staff present included: Rosemarie Otto, Executive Director, Marsha Arnold, Unit Manager, Sandra Powell, Administrator, Dr. Larry Arnold, Medical Director and Mr. Robert Kraemer, Advisory Attorney.

Minutes

Minutes from the September 21 and 22, 2004, September 24, 2004 teleconference, October 5, 2004 teleconference, October 7, 2004 teleconference and October 13, 2004 teleconference meetings were reviewed. Dr. Mutter made a motion to approve the minutes and Dr. White seconded the motion. The motion carried unopposed.

Ratification of Licenses

New, reinstated, failed to renew and voluntarily retired licenses for Medical Doctors, Medical X-Ray Operators, Athletic Trainers, Physician Assistants, Acupuncture and Clinical Perfusionists were reviewed by the Board. Dr. White made a motion to ratify the approval of licenses and the motion was seconded by Dr. Ali. The motion carried unopposed.

New Applicant Interviews

Richard Dale Childress, MD

Dr. Childress is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Childress's application file for the Board. Dr. Childress was in an MD/PHD program in which it took him 12 years to complete the USMLE. After further discussions, Dr. White made a motion to grant Dr. Childress a license and Dr. Ali seconded the motion. The motion passed.

Jaldeep Gupta, MD

Dr. Gupta is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Gupta's application file for the Board. Dr. Gupta failed to list, on his application, the fellowship in Texas from which he was dismissed. The Board had concerns about Dr. Gupta's omission. After further discussions, Dr. Gupta decided to withdraw his application. The Board decided if Dr. Gupta re-applies, he must submit a letter from the Texas Director.

Robert Jason Kellett, MD

Dr. Kellett is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Kellett's application file for the Board. Dr. Kellett previously appeared before the Board to explain why he was disciplined by his residency program. At that interview, he was required to seek an assessment through the Vanderbilt Comprehensive Assessment Program. Because some issues arose from the VCAP Assessment, Dr. Ali made a motion to have Vanderbilt submit the assessment to Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation for evaluation and present a full report on the assessment to the Board at the January 18-19, 2005 meeting. Dr. Mutter seconded the motion. The motion carried unopposed.

Janetta M. Kelly, MD

Dr. Kelly is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Kelly's application file for the Board. Dr. Kelly is planning on practicing in Chattanooga in the area of pediatrics. After further questions, Dr. Mutter made a motion to grant a license to Dr. Kelly. Ms. Yeiser and Dr. Barnes seconded the motion. The motion passed unopposed.

Edmundo Omar Larranaga, MD

Dr. Larranaga is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Larranaga's application file for the Board. Dr. Larranaga has been practicing in Columbia and there were large gaps in Dr. Larranaga's practice history in the United States. Dr. Mutter made a motion for an evaluation of Dr. Larranaga's clinical skills while employed at the Veteran's Administration Hospital in Michigan and that evaluation should come from his supervisor. Additionally, Dr. Larranaga must obtain a CPEP (Colorado Physician Evaluation Program) evaluation and submit it to the Board for review at the meeting in January 18, 2005. Dr. Ali seconded the motion. The motion passed unopposed.

Philip Lee Longas, MD

Dr. Longas' license to practice medicine in Tennessee was revoked for substance abuse problems. Dr. Arnold reviewed Dr. Longas' application file for the Board. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation spoke on behalf of Dr. Longas. Dr. Gray stated that Dr. Longas was sent to Georgia for treatment and has been progressing for two years. Dr. Gray reported that he receives regular reports from Dr. Longas' program in Georgia. Dr. Longas had submitted thirty-eight (38)-forty (40) continuing medical education hours to Dr. Arnold. Dr. White stated he was not comfortable accepting the continuing medical

education hours Dr. Longas obtained through the internet. Dr. White made a motion to grant Dr. Longas a license with lifetime advocacy with TMF and pending his obtaining an additional fifty (50) continuing medical education hours within the next year that is not internet based. Dr. Barnes seconded the motion. The motion passed unopposed.

Michael Francis McMahon, MD

Dr. McMahon is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. McMahon's application file for the Board. Dr. McMahon has a history of substance abuse. Dr. Gray, Medical Director for the Tennessee Medical Association stated that TMF will advocate for Dr. McMahon if license is granted. Dr. Mutter made a motion to grant Dr. McMahon a license contingent upon lifetime advocacy with TMF. Any loss of advocacy will result in the loss of Dr. McMahon's medical license. Ms. Johnson seconded the motion. The motion passed unopposed.

Abdullahi Abdulkarim Mohamed, MD

Dr. Mohamed is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Mohamed's application file for the Board. Dr. Mohamed has not practiced in four (4) years. Dr. Barnes made a motion to grant Dr. Mohamed a license and Dr. Ali seconded the motion. The motion carried unopposed.

Ronald A. Smith, MD

Dr. Smith is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Smith's application file for the Board. Dr. Smith plans on relocating to Athens, Tennessee and is under a five year contract with the Tennessee Medical Foundation. Dr. Zanolli made a motion to grant a license contingent upon Dr. Smith obtaining a five year contract with TMF. Ms. Yeiser seconded the motion. The motion passed.

Anant Sonpatki, MD

Dr. Sonpatki is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Sonpatki's application file for the Board. Dr. Sonpatki appeared before the Board in September and was asked to reappear. Dr. Parbhoo, vice-president of Spartan Medical School was present to represent the school and answer any questions. Dr. Parbhoo asserted that there had been a good deal of misinformation in the media about the school. Dr. Parbhoo denied that Spartan was an inferior medical school. After questioning by the Board, Ms. Otto informed the Board that some states had specifically banned Spartan graduates from obtaining a license to practice medicine in their state. Most notably, after an exhaustive review of Spartan, the California Board determined that Spartan graduates were persona non grata in California. Ms. Otto produced for the Board an e-mail from California confirming Spartan's status. Dr. White made a motion to deny licensure and Ms. Yeiser seconded the motion. Dr. Sonpatki stated he would like to withdraw his application. The application was withdrawn.

Adjourned for lunch at 1:15 p.m. and reconvened in the Cumberland Room at 2:00 p.m.

Reinstatement Interviews

Willem Edward Bok, MD

Dr. Bok is applying for reinstatement of his Tennessee medical license. Dr. Arnold reviewed Dr. Bok's application file for the Board. Dr. Bok voluntarily retired his license and wants reinstatement because the hospital in North Carolina where he was working has lost their certificate of need and may have to close. Dr. Bok's malpractice history was discussed by the Board. Dr. Mutter made a motion to grant Dr. Bok reinstatement of his medical license and Ms. Yeiser seconded the motion. The motion passed unopposed.

Chandrea Darcel Smothers, MD

Dr. Smothers is applying for reinstatement of her Tennessee medical license. Dr. Arnold reviewed Dr. Smothers' application file for the Board. Dr. Smothers has not practiced since 2000 but now plans to work as a fellow at Memphis Children's Hospital. Dr. White suggested to Dr. Smothers that she obtain some formal continuing medical education hours. Ms. Johnson made a motion to grant Dr. Smothers reinstatement of her medical license. Dr. Ali seconded the motion. The motion passed. Dr. Cunningham's suggestion to Dr. Smothers was for her to voluntarily submit twenty (20) CME hours within the first year.

Horton Earl Tarpley, MD

Dr. Tarpley is applying for reinstatement of his Tennessee medical license. Dr. Arnold reviewed Dr. Tarpley's application file for the Board. Dr. Eckles asked Dr. Tarpley if he would need his DEA number. Dr. Tarpley responded by saying he would not need his DEA number. Dr. White made a motion to grant Dr. Tarpley reinstatement of his medical license and Ms. Johnson seconded the motion. The motion carried unopposed.

Interviews re: Seven Year Rule

Gregory E. Huff, MD

Dr. Huff is applying for a license to practice medicine in Tennessee. Dr. Arnold stated that Dr. Huff is outside the seven year rule. Dr. Barnes made a motion to grant license. The motion failed for lack of a second. Mr. Kraemer gave Dr. Huff the option of withdrawing his application, which he accepted.

Elaine Ruth Reinhard, MD

Dr. Reinhard is applying for a license to practice medicine in Tennessee. Dr. Arnold stated that Dr. Reinhard is outside the seven year rule. Dr. Reinhard stated she was withdrawing her application. A suggestion was made that the seven year rule information be placed in the application. Staff told the Board they would revise the application to include information on the seven year rule.

Ratification of Denial of License

Ronald Edwin Calhoun, Jr., MD

Dr. Calhoun is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Calhoun's application file for the Board. Dr. Arnold reported that Dr. Calhoun had attended four medical schools and recommended the Board deny him a license. Dr. White made a motion to uphold Dr. Arnold's recommendation for denial of licensure. Dr. Ali seconded the motion. The motion carried unanimously. For the record, it should be noted that Dr. Calhoun was present and represented by counsel. He attempted to pass out information to the Board but was told that would be out of order. Bob Kraemer advised Dr. Calhoun and his lawyer they would have an opportunity to appeal the Board's decision in the near future.

Sitaram Gururao Kadekar, MD

Dr. Kadekar is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Kadekar's application file for the Board. Dr. Arnold reported that Dr. Kadekar could not provide an original source transcript and recommended denial of licensure. Dr. White made a motion to uphold the recommendation of denial. Dr. Ali seconded the motion. The motion carried unopposed.

Dr. Willie Johnson, MD was called upon twice within a thirty minute time span. Dr. Johnson was not in attendance.

Modification of Terms of Restricted License

Frank Pennington, MD

Ms. Lea Phelps, Disciplinary Coordinator, reported the disciplinary history of Dr. Pennington for the Board. Dr. Pennington is seeking a full and unrestricted license. Dr. Gray, Medical Director for the Tennessee Medical Foundation stated TMF is not ready to advocate for Dr. Pennington. Dr. Pennington will not be eligible for consideration of an unrestricted license until June, 2005. Dr. Ali made a motion to deny Dr. Pennington's application to lift all restrictions on his medical license. Ms. Yeiser seconded the motion. The motion passed unopposed.

Rule Action

Mr. Jerry Kosten, Rules Coordinator, reported that no one attended the rulemaking hearing which was held November 16, 2004 regarding Public Chapter 704 from 2004 concerning Radiologist Assistants and correcting a reference to a statute, international medical school admission standards, continuing education and continuing education for x-ray operators. Dr. Starnes who was instrumental in drafting the proposed Rules was present to answer questions pertaining to Radiologist Assistants. The rule was adopted unanimously by roll call vote.

Mr. Kosten requested the Board to authorize a rulemaking hearing regarding requirements to retake the USMLE. Mr. Kosten explained that one point would be added to the minimum

passing score each time a person retakes a failed step of the USMLE. Ms. Yeiser made a motion to send the proposed rule to rulemaking hearing. Dr. Mutter seconded the motion. Dr. Zanolli opposed. The motion passed.

Discussion

Andrea Willis, MD, Deputy Commissioner for the Department of Health discussed with the Board the Commissioner's Health Initiatives. Dr. Willis reported they were working on improving the quality of life to make a difference in Tennessee health. Dr. Willis informed the Board they could e-mail John Ferguson with ideas at john.ferguson@state.tn.us.

Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation provided an update of activities at TMF for the Board.

Discussion for the limited scope x-ray course approval for Jeff Mullins was reviewed. Ms. Yeiser made a motion to approve Mr. Mullin's x-ray course and Dr. White seconded the motion. The motion carried.

Dr. Mutter discussed the Complementary and Alternative Medicine hearing which was held in Johnson City, Tennessee on July 8, 2004 while no BME representative was in attendance, Dr. Mutter did review the audio and videotapes in preparation for his December 7, 2004 testimony before a General Assembly Sub Committee. Dr. Mutter stated alternative medicine was discussed but the main issue addressed was chelation therapy. Dr. Mutter shared with the Board the sum and substance of his proposed remarks before the December 7, 2004 hearing. He asked the Board to reaffirm its 2000 policy on Chelation. Dr. White made a motion to reaffirm the policy on Chelation and Dr. Zanolli seconded the motion. The motion passed.

Reports

Budget Report

Ms. Rosemarie Otto reported on the financial report in Ms. Lisa Tittle's absence. Ms. Otto stated the deficit has decreased substantially. Ms. Robbie Bell, Director for Health Related Boards reported that the Board could expect some additional costs in 2005 such as the move to a new building, costs associated with the controlled substance monitoring database and the RBS upgrade.

Director's Report

Ms. Otto, Executive Director reviewed the Director's report for the Board. Ms. Otto stated she and Dr. Arnold along with Zachary Nixon from the Department of Health's Internal Audit, audited the State's contract with the Tennessee Medical Foundation. Ms. Otto is in the process of preparing a draft of the findings and will be speaking with Dr. Gray regarding the draft. When that meeting is concluded, she will prepare a final report to the Board. That report will be available for discussion at the January, 2005 meeting.

Investigation Report

Denise Moran, Director with the Office of Investigation, reviewed her report for the Board. Ms. Moran stated there have been 689 complaints this year and a request has been made for three new investigators because of the increase in complaints.

Disciplinary Report

Ms. Lea Phelps, Disciplinary Coordinator reviewed her disciplinary report for the Board.

Office of General Counsel Report

Mr. Robert Kraemer reviewed his OGC report for the Board and reviewed the rules which are in effect at present.

“Noteworthy” section for the Internet

The Board did not designate anything for the “Noteworthy” section of the internet.

Disciplinary Action

Cumberland Room:

Panel: Ali, Zanolli and Mutter

Agreed Order

Robbie Kimbrell- Ms. Kimbrell was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. Mr. Kraemer handed out the Agreed Order to the panel for review. Ms. Kimbrell was in violation of practicing without an MD X-ray Operator license. Ms. Kimbrell must pay five hundred dollars (\$500.00) in civil penalties within six (6) months. Dr. Zanolli made a motion to accept the Agreed Order and Dr. Ali seconded. The motion passed.

Amy Roberts-Bullock-Ms. Bullock was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. Mr. Kraemer handed out the Agreed Order to the panel for review. Ms. Bullock was in violation of practicing without an MD X-ray Operator license. Ms. Bullock must pay five hundred dollars (\$500.00) in civil penalties within six (6) months. Dr. Ali made a motion to accept the Agreed Order and Dr. Zanolli seconded. The motion passed.

Adjourned at 5:10 p.m.

Wednesday, November 17, 2004

Cumberland Room

Board members: Zanolli, White, Ali, Johnson, Mutter, Yeiser, Cunningham, Barnes, Eckles

Mr. Harry Weddle, from the Office of General Counsel, informed the Board that Consent Orders will work the same as Agreed Orders. They are reportable to the National Databank. Bob Kraemer asked the Board for some direction regarding this new process and procedure. Specifically he asked the Board if they wanted the physician who is the subject of the Consent Order to personally appear on the day the order is presented to them for ratification. After some discussion the Board decided to leave the question up to the sole discretion of the Board's medical director.

Panel: Cunningham, Zanolli, Johnson

Order Modification

Herman A. Garrett, MD-Dr. Garrett was present and represented by legal counsel, Ms. Rachel Nelley. Mr. Harry Weddle represented the State. The Honorable Rob Wilson, Administrative Law Judge presided. The witnesses were sworn in. The Order was handed out to the panel for review. Mr. Weddle objected to the hearing being conducted because the Board had set in place new rules for Order Modifications and this type of hearing is out of order. Judge Wilson overruled Mr. Weddle's objection. Dr. Garrett is charged with violating TCA 63-6-214(b) (20). Dr. Garrett was issued a Kentucky medical license which is currently inactive. On May 24, 2001 an Agreed Order of Surrender was entered by the Kentucky Board of Medical Licensure following an investigation into Dr. Garrett's personal misuse of alcohol and the unlawful diversion of controlled substances for personal misuse, inappropriate sexual contact with female patients while they were anesthetized. The Order states that Dr. Garrett's Tennessee medical license is suspended for a period of three (3) years. After the passage of three (3) years, Dr. Garrett shall be eligible to petition the Board for a modification of the Order in order to lift the suspension. Dr. Garrett will need to appear personally before the Board and bear the burden of proof and persuasion that all terms and conditions of the Order have been fully met. Ms. Nelly asked for a motion for relief. Dr. Zanolli moved to let the previous Order stand and Ms. Johnson seconded the motion. The panel upheld the previous Order.

Agreed Order

James C. McDonald, MD-Dr. McDonald was not present nor represented by legal counsel. Mr. Robert J. Kraemer represented the State. The Notice of Charges and Agreed Order were handed out to the panel for review. Dr. McDonald is charged with violating TCA 63-6-214(b) (20). Dr. McDonald's license to practice medicine in Louisiana was disciplined for habitual and recurring abuse of controlled substances. The Agreed Order states that Dr. McDonald's license to practice medicine in Tennessee is suspended concurrent with the suspension of his license to practice medicine in Louisiana. When Dr. McDonald's license to practice medicine in Louisiana is reinstated, his license in this state shall be placed under the same terms and conditions and time limitations as the Louisiana Board places on his license. Dr. McDonald has obtained a contract with Louisiana and needs to obtain advocacy with the Tennessee Medical Foundation.

Ms. Johnson made a motion to accept the Agreed Order and Dr. Zanolli seconded the motion. The motion passed.

Elizabeth A. Lawson, MD- Dr. Lawson was not present nor represented by legal counsel. Mr. Robert J. Kraemer represented the State. The Notice of Charges and Agreed Order were handed out to the panel for review. Dr. Lawson is charged with violating TCA 63-52-117 (d). Dr. Lawson failed to update her internet profile as required by the “Health Care Consumer Right To Know Act of 1998.” The Agreed Order states that Dr. Lawson must pay Type B Civil Penalty in the amount of two hundred dollars (\$200.00) within thirty (30) days of the effective date of the Order. Dr. Zanolli made a motion to accept the Agreed Order. Ms. Johnson seconded. The motion passed unanimously.

Tennessee Room

Panel: White, Eckles, Yeiser

Agreed Order

Curtis Elam, MD-Dr. Elam was not present nor represented by legal counsel. Ms. Laurie Doty represented the State. The Notice of Charges and Agreed Order were handed out to the panel for review. Dr. Elam is charged with violating TCA 63-6-214 (B) (1) and TCA 63-6-214 (b) (4). The Agreed Order states that Dr. Elam’s license to practice medicine in Tennessee shall be placed on probation for a period of two (2) years. During the two year probationary period, Dr. Elam must obtain and provide proof of attending the following continuing education courses in addition to any regularly required continuing education hours: Pelvic Anatomy course given at Vanderbilt University, twenty (20) hours in a course or courses of fetal monitoring and management and twenty (20) hours of ethics with a focus in patient management/patient abandonment. Dr. Elam must pay four (4) Type A civil penalties in the amount of one thousand dollars each (\$1,000) for a total of four thousand dollars (\$4,000) within thirty (30) days from the effective date of the order. The penalty must be paid in full before licensure may be renewed. Dr. White made a motion to accept the Agreed Order and Dr. Eckles seconded. The motion passed.

Christ Koulis, MD-Dr. Koulis was not present nor represented by legal counsel. Mr. O’Connell represented the State. The Second Amended Notice of Charges, Order of Summary Suspension and Agreed Order were handed out to the panel for review. Dr. Koulis is in violation of TCA 63-6-214 (b) (1), TCA 63-6-214 (b) (2), TCA 63-6-214 (b) (5), TCA 63-6-214 (b) (12), TCA 63-6-214 (b) (13), TCA 63-6-214 (b) (14) and TCA 63-6-214 (b) (18). The Agreed Order states that Dr. Koulis must voluntarily and permanently surrender his license to practice medicine in Tennessee, effective immediately. Dr. Koulis must pay court cost within thirty (30) days from the issuance of the Affidavit of Costs. Dr. White made a motion to accept the Agreed Order in its entirety including the Summary Suspension. Dr. Eckles seconded the motion. The motion passed.

Contested Case Hearing

Willie Johnson, MD-Dr. Johnson was not present nor represented by legal counsel. Mr. Robert O'Connell represented the State. The Honorable Robert Fellman, Administrative Law Judge presided. On November 16, 2004 Dr. Johnson was called upon at 1:00 p.m. and again thirty minutes later. Dr. Johnson was not present. Mr. O'Connell stated California has revoked Dr. Johnson's medical license. Mr. O'Connell informed the panel there were four (4) known addresses for Dr. Johnson in which letters were mailed to his last home address but were returned undeliverable. Mr. O'Connell asked for Default. Mr. O'Connell handed out the Notice of Charges, Default Order and California's Order to the panel for review. Dr. Johnson is charged with violating TCA 63-6-214 (b) (1), and TCA 63-6-214 (b) (20). Dr. Johnson's license to practice medicine in California was revoked by order of the California Medical Board, adopted on July 24, 2003, and made effective on August 25, 2003. Dr. Johnson was charged with securing a California medical license by knowingly omitting to state a material fact (1994 criminal drug conviction in Tennessee) on an application for licensure, unprofessional conduct by making or signing a certificate or other document relating to the practice of medicine falsely representing facts, failure to maintain adequate and accurate patient records, conviction of a criminal offense substantially related to the practice of medicine, violation of federal or state statutes or regulations regulating dangerous drugs or controlled substances and violation of conditions of probation placed upon his California medical license. The default order states that Dr. Johnson's license to practice medicine in Tennessee will be revoked immediately upon the effective date of the order. Dr. Johnson must pay court costs. Dr. White made a motion to accept the Default with the amendment to put permanently revoked in the order. Dr. Eckles seconded the motion. The motion passed.

Consent Orders

Eddie Bolden- Mr. Bolden was not present nor represented by legal counsel. Mr. Robert O'Connell represented the State. Mr. O'Connell handed out the Consent Order to the panel for review. Mr. Bolden practiced medicine in Tennessee without the required license. Mr. Bolden is in violation of TCA 63-6-201 (a) 63-1-134 and is assessed one (1) Class A civil penalty in the amount of one thousand dollars (\$1,000), for the violations. Mr. Bolden shall refrain from claiming and/or representing to the public that he has been issued a license to practice medicine in the State of Tennessee, refrain from using the term "medical" as part of an occupational title, in any future reference to himself including but not limited to, any business correspondence and/or advertising. Mr. Bolden waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of the Consent Order. Dr. White made a motion to accept the Consent Order and Dr. Eckles seconded the motion. The motion passed.

Peter Clark, MD- Dr. Clark was not present nor represented by legal counsel. Mr. Robert O'Connell represented the State. Mr. O'Connell handed out the Consent Order to the panel for review. Dr. Clark is charged with violating TCA 63-6-214 (b) (1) and TCA 63-6-214 (b) (2). Dr. Clark served as supervising physician for Life Shapes, a weight loss clinic operated by his ex-wife until November 12, 2003, when he resigned from that position. Dr. Clark's ex-wife wrote prescriptions for medicine using his DEA registration number, for patients never seen

by him. Dr. Clark failed to properly supervise the operation of the clinic. Dr. Clark's license to practice medicine in Tennessee is reprimanded. Dr. Clark must pay one (1) Class A civil penalty in the amount of one thousand dollars (\$1, 000) and pay hearing costs. Dr. White made a motion to accept the Consent Order and Dr. Eckles seconded the motion. The motion passed.

John Horner, MD- Dr. Horner was not present nor represented by legal counsel. Mr. Robert O'Connell represented the State. Mr. O'Connell handed out the Consent Order to the panel for review. Dr. Horner is charged with violating TCA 63-6-214 (b) (1) and TCA 63-6-214 (b) (2). On June 3, 2003, the Department, through its Bureau of Investigations received an anonymous complaint with regard to Dr. Horner's medical license. The complaint alleged that Dr. Horner kept a large dog in and at his office, which compromised the cleanliness and safety of his patients, and also that he prescribed scheduled drugs to his family members. The Board ordered Dr. Horner to receive a mental and physical examination through the Vanderbilt Comprehensive Assessment Program for Professionals on January 12, 2004. Dr. Horner fully cooperated with the examination and has participated in the in-patient treatment program offered by the Professional Enhancement Program at Hattiesburg, Mississippi for sixty (60) days and has maintained the Tennessee Medical Foundation advocacy. The Consent Order states that Dr. Horner's license to practice medicine shall be placed on probation for a period of three (3) years from the effective date of the Consent Order. At the end of the probationary period, before the probation may be lifted, Dr. Horner must petition the Board for an Order of Compliance and make a personal appearance before the Board. At the time of such personal appearance, in order for the Petition for an Order of Compliance to be granted and the probation lifted, Dr. Horner must show that all conditions on his Tennessee medical license have been maintained throughout the probationary period. Dr. Horner must maintain the advocacy with the TMF throughout the probationary period. Quarterly reports must be submitted to the Board from Dr. Horner's treating psychiatrist and/or physician. Dr. Horner must attend a three (3) day seminar entitled: "*Prescribing Controlled Drugs*", which is offered at the "Center for Professional Health" at Vanderbilt University Medical Center, in Nashville, Tennessee, or equivalent course approved by the Board and proof of attendance to the Board. Dr. Horner must pay all costs. Dr. White made a motion to accept the Consent Order. The motion was seconded by Dr. Eckles and passed unanimously.

Room 133, First Floor:

Panel: Ali, Barnes, Mutter

Consent Orders

John Harris, MD- Dr. Harris was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. Ms. Qureshi handed out the Consent Order to the panel for review. Dr. Harris is charged with violating TCA 63-6-214(b) (20) and TCA 63-6-214(b) (5). Dr. Harris voluntarily surrendered his North Carolina medical license on September 2, 2003 for abusing opioid narcotics. The Consent Order states that Dr. Harris must immediately surrender his Tennessee license to practice medicine in the State of Tennessee. Dr. Harris may not apply for a new Tennessee medical license prior to the expiration of at least one (1) year from the effective date of the Order and at such time must personally appear before the Board

and obtain advocacy from the Tennessee Medical Foundation. Dr. Harris must present evidence to the Board that his North Carolina medical license is unencumbered and in good standing. Dr. Mutter made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed unanimously.

Michael Jackson Higgins, MD- Dr. Higgins was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. Ms. Qureshi handed out the Consent Order to the panel for review. Dr. Higgins is charged with violating TCA 63-6-214 (b) (20) and TCA 63-6-214 (b) (5). Dr. Higgins' license to practice medicine in Texas was disciplined on August 16, 2002. Dr. Higgins stipulated that he personally misused drugs or used intoxicants, narcotics, controlled substances or other drugs or stimulants in such a manner as to affect his ability to practice medicine. On June 25, 2003, Dr. Higgins voluntarily surrendered his Alabama medical license while an Administrative Complaint was pending against him. The Consent Order states that Dr. Higgins immediately surrender his Tennessee license to practice medicine in Tennessee and may not apply for a new Tennessee medical license prior to the expiration of at least one (1) year from the effective date of the Order. Dr. Higgins must personally appear before the Board and present evidence that his Texas and Alabama medical license are unencumbered and in good standing. Dr. Ali made a motion to accept the Consent Order. Dr. Mutter seconded the motion. The motion passed unanimously.

Harold Smith, MD- Dr. Smith was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The Consent Order was handed out to the panel for review. Dr. Smith is charged with violating TCA 63-6-214 (b) (20). The Florida Board of Medicine filed formal charges against Dr. Smith's medical license for dispensing, prescribing or otherwise distributing a controlled substance not in the course of professional practice, and for failure to maintain records on prescriptions for controlled substances. On April 7, 2004, the Arkansas State Medical Board issued an Order requiring Dr. Smith to refrain from practicing medicine in the State of Arkansas until he appears before the Arkansas Board and shows that he is in compliance with the Florida Order. The Consent Order states that Dr. Smith's license to practice in Tennessee shall be placed on suspension while the Florida Final Order is in effect. Dr. Smith is required to personally appear before the Tennessee Board when all of the conditions of the Florida Final Order are satisfied and present evidence to the Board that his Florida and Arkansas medical licenses are unencumbered and in good standing. Dr. Mutter made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed.

Richard D. Zujko, MD- Dr. Zujko was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The Consent Order was handed out to the panel for review. Dr. Zujko has out of state action and is charged with violating TCA 63-6-214 (b) (20) and TCA 63-6-214 (b) (4). Formal charges were filed against Dr. Zujko's Kansas license by the Kansas Board of Healing Arts for engaging in a pattern of malpractice, negligence, or incompetence. On February 2, 2004, the Kansas Board adopted a Consent Order which allowed Dr. Zujko to voluntarily surrender his Kansas medical license in consideration that formal charges against his license were pending and that Dr. Zujko was prohibited from applying for licensure from the Kansas Board for three (3) years. Tennessee's Consent Order states that Dr. Zujko must immediately surrender his Tennessee license to practice medicine in the State of Tennessee. Dr. Zujko may not apply for a new license prior to the expiration of at least three (3)

full years from the effective date of the Order. Dr. Zujko must personally appear before the Board and present evidence that his Kansas medical license is unencumbered and in good standing. Dr. Mutter made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed unanimously.

John Baxter Hamilton, MD- Dr. Hamilton was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The Consent Order was handed out to the panel for review. Dr. Hamilton is charged with out of state action and in violation of TCA 63-6-214 (b) (20) and TCA 63-6-214 (b) (10). On January 8, 2002, Dr. Hamilton was convicted of first degree murder in the District Court of Oklahoma County, State of Oklahoma, and sentenced to life in prison without possibility of parole. On September 19, 2003, Dr. Hamilton voluntarily surrendered his Georgia medical license in consideration that formal charges against his license were pending. Tennessee's Consent Order states that Dr. Hamilton's Tennessee medical license is hereby immediately revoked. Dr. Hamilton may not apply for a new license prior to the expiration of at least one (1) full year from the effective date of the Order. Dr. Hamilton must personally appear before the Board and present evidence that his January 8, 2002 conviction for first degree murder in the District Court of Oklahoma County, State of Oklahoma, has been vacated and that he has been found not guilty of the above-mentioned charges and that his Oklahoma and Georgia medical licenses are unencumbered and in good standing. Dr. Ali made a motion to accept the Consent Order and Dr. Mutter seconded the motion. The motion passed.

Michael E. Posey, MD- Dr. Posey was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. Ms. Qureshi handed out the Consent Order to the panel for review. Dr. Posey is charged with violating TCA 63-6-214 (b) (1). Dr. Posey ordered three hundred twenty-three (323) x-rays in a physician's office from persons who were either practicing outside the parameters of their limited x-ray operator certificate or while they were without a valid Tennessee limited x-ray operator certificate from January of 2002 through December 2002. The Consent Order states that Dr. Posey's medical license is reprimanded and he must pay three hundred twenty-three (323) Type B civil penalties in the amount of ten dollars (\$10.00) each, assessed for each x-ray in a physician's office which was ordered by him and was taken by persons who were either practicing outside the parameters of their limited x-ray operator certificates or while they were without a valid Tennessee limited x-ray operator certificate, a total of three thousand two hundred thirty dollars (\$3230.00) in civil penalties, representing violations of the Tennessee Medical Practice Act or regulations or both in such a manner as to impact directly on the care of patients or the public. Any and all Civil Penalties shall be paid in full within ninety (90) days of the effective date of the Consent Order. Dr. Posey must pay one (1) Type B Civil Penalties in the amount of five hundred dollars (\$500), assessed for permitting employees at Memphis Internal Medicine, P.L.L.C., to take x-ray's in a physician's office which were either outside the parameters of their limited x-ray operator certificates or while they were without a valid Tennessee x-ray operator certificate, a total of five hundred dollars (\$500) in civil penalties and must be paid in full within ninety (90) days of the effective date of the Consent Order. Board members asked Ms. Qureshi what would happen if they rejected the proposed order because they felt a reprimand was too severe. The Board was told that should they reject the proposed consent order, the matter would be returned to the Office of General Counsel for a notice of charges and fully contested case. The Board, therefore,

reluctantly accepted this consent order and those that followed. Dr. Mutter made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed.

James K. Ensor, Jr., MD- Dr. Ensor was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The Consent Order was handed out to the panel for review. Dr. Ensor is charged with violating TCA 63-6-214 (b) (1). Dr. Ensor ordered ninety-three (93) x-rays in a physician's office from persons who were either practicing outside the parameters of their limited x-ray operator certificate or while they were without a valid Tennessee limited x-ray operator certificate from January of 2002 through December 2002. The Consent Order states that Dr. Ensor's medical license is reprimanded. Dr. Ensor must pay ninety-three (93) Type B civil penalties in the amount of nine hundred thirty dollars (\$930.00) and one (1) Type B civil penalty in the amount of five hundred dollars (\$500). Dr. Mutter made a motion to accept the Consent Order. The motion was seconded by Dr. Ali. The motion passed unanimously.

Frederick Pelz, MD- Dr. Pelz was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The Consent Order was handed out to the panel for review. Dr. Pelz is charged with violating TCA 63-6-214 (b) (1). Dr. Pelz ordered one hundred seventy-six (176) x-rays from persons who were either practicing outside the parameters of their limited x-ray operator certificate or without a valid Tennessee limited x-ray operator certificate from January of 2002 through December of 2002. The Consent Order states that Dr. Pelz medical license is reprimanded. Dr. Pelz must pay one hundred seventy-six Type B civil penalties totaling one thousand seventy-six dollars (\$1, 760.00) and one (1) Type B civil penalty totaling five hundred dollars (\$500.00). Dr. Ali made a motion to accept the Consent Order and Dr. Mutter seconded the motion. The motion passed unanimously.

David Sharfman, MD- Dr. Sharfman was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The Consent Order was handed out to the panel for review. Dr. Sharfman is charged with violating TCA 63-6-214 (b) (1). Dr. Sharfman ordered seventy (70) x-rays in a physician's office from persons who were either practicing outside the parameters of their limited x-ray operator certificate from January of 2002 through December of 2004. The Consent Order states that Dr. Sharfman's medical license is reprimanded. Dr. Sharfman must pay seventy (70) Type B civil penalties totaling seven hundred dollars (\$700.00) and one (1) Type B civil penalty with a total of five hundred dollars (\$500.00). Dr. Mutter made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed.

Martha Hodges, MX- Ms. Hodges was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The Consent Order was handed out to the panel for review. Ms. Hodges was issued a limited x-ray operator certificate in bone density and chest extremities. Ms. Hodges took seventeen (17) x-rays in a physician's office which were outside the parameters of her limited x-ray operator certificate from January of 2002 through December of 2002. The Consent Order states that Ms. Hodges' limited x-ray operator certificate is reprimanded. Ms. Hodges must pay seventeen (17) Type B civil penalties totaling one hundred seventy dollars (\$170.00). Dr. Ali made a motion to accept the Consent Order and Dr. Mutter seconded the motion. The motion passed unanimously.

Adjourned at 11:30 a.m.

Dr. Allen S. Edmonson, Secretary

SP/G3045046/BMEmin

Date